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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,747	06/24/2005	Hiroshi Yanagida	061069-0316399	9710

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PILLSBURY WINTHROP SHAW PITTMAN, LLP  
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EXAMINER
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MAZUMDAR, SONYA

ART UNIT	PAPER NUMBER
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1734

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	05/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/540,747	Applicant(s) YANAGIDA ET AL.	
	Examiner Sonya Mazumdar	Art Unit 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's amendment, see page 2 of remarks filed February 26, 2007, with respect to the objection of the specification has been fully considered, and the objection has been withdrawn.
2. Applicant's amendment, see pages 4 and 6 of remarks, with respect to the objection of claim 1 has been fully considered, and the objection has been withdrawn.
3. Applicant's arguments with respect to claim 1 have been considered, but in light of amendment, are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: in line 15, "baking" should be changed to "backing"; in line 16, "packing" should be changed to "backing". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the transfer direction of the backing paper web" in line 19. There is insufficient antecedent basis for this limitation in the claim.

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawada (EP 0759398) in view of Goto (US 5,403,431).

Kawada teach a label applying apparatus (1) comprising (Figure 3):

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a main body (10) at a rear end of which a grip portion (11) is formed;

a manual lever (20) pivotally supported by the main body, having a partial gear portion (22) and an operating arm;

a spring (21) connected between the grip portion and the manual lever to bias the manual lever in a direction away from the grip portion;

a holder portion (30, 31, 32) arranged at the main body, to accommodate a roll of labels (L) on a backing web (T);

an applying roller (45) arranged rotatably at a tip portion of the main body;

a guide plate (44) arranged adjacently to the applying roller, slidably connected with the backing paper web which is fed from the holder portion, and leading the backing paper web to a bottom of the main body after a foremost label is peeled off from the backing paper web;

a bottom lid (50) pivotally supported at the bottom of the main body for opening and closing, and preventing the backing web from moving in a direction opposite to a travel direction of the backing paper web (column 5, lines 1-4);

a sending lever (63) supported by a pivot (62) on the main body and having a partial gear portion (62a) that interlocks with the partial gear portion (22) of the manual lever (column 4, lines 26-35);

a slide block (65) mounted at the bottom of the main body and connected with the sending lever (63) such as to be movable relatively thereto (column 4, lines 26-35);

a pair of feed teeth (65a) pivotally mounted on the slide base and engagable with the backing paper web which is led to the bottom of the main body (column 4, line 51 – column 5, line 13; Figure 4);

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a stop detection sensor piece (66a) pivotally mounted on the slide block (65);  
a stop lever (70) pivotally supported on the main body and engagable with the stop detection sensor piece (66a) (Figure 5);

a stop release member (80) pivotally supported on the main body (Figure 5);  
a connecting frame (43) pivotally supported on the main body, connected with the stop lever such as to be movable relative thereto, and capable of disengaging the stop lever from the stop detection sensor piece (column 6, lines 11-19; Figure 5);

a label sensor (46) pivotally supported on the connecting frame and having a sensor blade (46b) which is engagable with a front edge of the foremost label on the backing paper web (column 5, lines 24-33; Figure 7);

Kawada does not teach a guide pin to lead a backing paper web to a bottom of the main body after a label is peeled off from the backing paper web. However, Goto teaches a deflection pin (32) arranged at the front tip at a transfer position to move a backing web off of a label after bringing the label to a roller (24) (column 4, lines 4-8; column 5, lines 63-68; Figure 6).

It would have been obvious to one having ordinary skill in the art to use a deflection pin as Goto taught, and would have been motivated to do so because a pin takes up less space in an apparatus than a plate.

### ***Conclusion***


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonya Mazumdar whose telephone number is (571) 272-6019. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
CHRIS FIORILLA  
SUPERVISORY PATENT EXAMINER  
Au 1734

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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